

ASSEMBLY BILL

No. 37

Introduced by Assembly Member Williams

July 5, 2011

An act to amend Sections 365.1, 380, and 399.13 of, and to repeal Section 366 of, the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 37, as introduced, Williams. Electrical restructuring: electrical resource adequacy: renewable energy resources.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. Existing law, enacted as part of electrical restructuring, requires the commission to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers and gives the right to end-use customers to aggregate their electrical loads on a voluntary basis by positive written declaration. Other law, enacted during the energy crisis of 2000–01, authorized the Department of Water Resources, until January 1, 2003, to enter into contracts for the purchase of electricity, and to sell electricity to retail end-use customers at not more than the department's acquisition costs and to recover those costs through the issuance of bonds to be repaid by ratepayers. That law suspended the right of retail end-use customers, other than community choice aggregators and a qualifying direct transaction customer, as defined, to acquire service through a direct transaction until the Department of Water Resources no longer supplies electricity under that law. Existing law continues the suspension of direct transactions except as expressly authorized, until the Legislature, by statute, repeals the suspension or otherwise authorizes direct

transactions. Existing law requires the commission to authorize direct transactions subject to a reopening schedule that will phase in over a period of not less than 3 years and not more than 5 years, and is subject to an annual maximum allowable total kilowatthour limit established, as specified, for each electrical corporation. Existing law requires that the commission ensure that any person, corporation, or other entity that is authorized to provide electric service within the service territory of an electrical corporation (other providers) are subject to the same requirements that are applicable to the state's 3 largest electrical corporations under any programs or rules adopted by the commission to implement specified resource adequacy provisions, the California renewables portfolio standard program, and the requirements for the electricity sector adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006.

This bill would repeal a requirement, adopted as part of electrical restructuring, that requires the commission to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers and that gives the right to end-use customers to aggregate their electrical loads on a voluntary basis by positive written declaration. The bill would require every other provider of electric service to annually report to the commission a list of each retail end-use customer to whom it provided electric service during the year, along with the address at which electric service was provided. The bill, beginning January 1, 2013, would prohibit other providers from providing electric service to any customer or customer address that was not listed in its annual report for the previous year.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

(2) Existing law authorizes the commission to consider establishment of a centralized resource adequacy mechanism in establishing resource adequacy requirements applicable to all load-serving entities and places certain conditions upon the establishment of a centralized resource adequacy mechanism if the commission determines to utilize that option.

This bill would prohibit the commission from authorizing the establishment of a centralized resource adequacy mechanism and would repeal the conditions placed upon use of that option.

(3) Existing law creates the California renewables portfolio standard program (RPS program) to increase the amount of electricity generated per year from eligible renewable energy resources, as defined. The RPS program requires the commission to establish the quantity of electricity products from eligible renewable energy resources, as defined, to be procured by each retail seller, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 20% of retail sales for the period of January 1, 2011, to December 31, 2013, inclusive, 25% of retail sales by December 31, 2016, and 33% of retail sales by December 31, 2020, and in all subsequent years. Existing law authorizes a retail seller to enter into a combination of long- and short-term contracts for electricity and associated renewable energy credits and authorizes the commission to authorize a retail seller to enter into a contract of less than 10 years' duration if the commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured through those contracts.

This bill would require that the minimum quantity of eligible renewable energy resources to be procured through contracts of at least 10 years' duration established by the commission for each retail seller be not less than 50% of the retail sales used to meet that retail seller's renewable energy resources requirements for each compliance period.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 365.1 of the Public Utilities Code is
2 amended to read:

3 365.1. (a) Except as expressly authorized by this section, and
4 subject to the limitations in subdivisions (b) and (c), the right of
5 retail end-use customers pursuant to this chapter to acquire service
6 from other providers is suspended until the Legislature, by statute,
7 lifts the suspension or otherwise authorizes direct transactions. For
8 purposes of this section, “other provider” means any person,
9 corporation, or other entity that is authorized to provide electric
10 service within the service territory of an electrical corporation
11 pursuant to this chapter, and includes an aggregator, broker, or
12 marketer, as defined in Section 331, and an electric service
13 provider, as defined in Section 218.3. “Other provider” does not
14 include a community choice aggregator, as defined in Section
15 331.1, and the limitations in this section do not apply to the sale
16 of electricity by “other providers” to a community choice
17 aggregator for resale to community choice aggregation electricity
18 consumers pursuant to Section 366.2.

19 (b) The commission shall allow individual retail nonresidential
20 end-use customers to acquire electric service from other providers
21 in each electrical corporation’s distribution service territory, up to
22 a maximum allowable total kilowatthours annual limit. The
23 maximum allowable annual limit shall be established by the
24 commission for each electrical corporation at the maximum total
25 kilowatthours supplied by all other providers to distribution
26 customers of that electrical corporation during any sequential
27 12-month period between April 1, 1998, and the effective date of
28 this section. Within six months of the effective date of this section,
29 or by July 1, 2010, whichever is sooner, the commission shall
30 adopt and implement a reopening schedule that commences
31 immediately and will phase in the allowable amount of increased
32 kilowatthours over a period of not less than three years, and not

more than five years, raising the allowable limit of kilowatthours supplied by other providers in each electrical corporation's distribution service territory from the number of kilowatthours provided by other providers as of the effective date of this section, to the maximum allowable annual limit for that electrical corporation's distribution service territory. The commission shall review and, if appropriate, modify its currently effective rules governing direct transactions, but that review shall not delay the start of the phase-in schedule.

(c) Once the commission has authorized additional direct transactions pursuant to subdivision (b), it shall do ~~both~~ *all* of the following:

(1) Ensure that other providers are subject to the same requirements that are applicable to the state's three largest electrical corporations under any programs or rules adopted by the commission to implement the resource adequacy provisions of Section 380, the renewables portfolio standard provisions of Article 16 (commencing with Section 399.11), and the requirements for the electricity sector adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code). This requirement applies notwithstanding any prior decision of the commission to the contrary.

(2) (A) Ensure that, in the event that the commission authorizes, in the situation of a contract with a third party, or orders, in the situation of utility-owned generation, an electrical corporation to obtain generation resources that the commission determines are needed to meet system or local area reliability needs for the benefit of all customers in the electrical corporation's distribution service territory, the net capacity costs of those generation resources are allocated on a fully nonbypassable basis consistent with departing load provisions as determined by the commission, to all of the following:

(i) Bundled service customers of the electrical corporation.

(ii) Customers that purchase electricity through a direct transaction with other providers.

(iii) Customers of community choice aggregators.

(B) The resource adequacy benefits of generation resources acquired by an electrical corporation pursuant to subparagraph (A) shall be allocated to all customers who pay their net capacity costs.

1 Net capacity costs shall be determined by subtracting the energy
2 and ancillary services value of the resource from the total costs
3 paid by the electrical corporation pursuant to a contract with a
4 third party or the annual revenue requirement for the resource if
5 the electrical corporation directly owns the resource. An energy
6 auction shall not be required as a condition for applying this
7 allocation, but may be allowed as a means to establish the energy
8 and ancillary services value of the resource for purposes of
9 determining the net costs of capacity to be recovered from
10 customers pursuant to this paragraph, and the allocation of the net
11 capacity costs of contracts with third parties shall be allowed for
12 the terms of those contracts.

13 (C) It is the intent of the Legislature, in enacting this paragraph,
14 to provide additional guidance to the commission with respect to
15 the implementation of subdivision (g) of Section 380, as well as
16 to ensure that the customers to whom the net costs and benefits of
17 capacity are allocated are not required to pay for the cost of
18 electricity they do not consume.

19 ~~(d) (1) If the commission approves a centralized resource~~
20 ~~adequacy mechanism pursuant to subdivisions (h) and (i) of Section~~
21 ~~380, upon the implementation of the centralized resource adequacy~~
22 ~~mechanism the requirements of paragraph (2) of subdivision (c)~~
23 ~~shall be suspended. If the commission later orders that electrical~~
24 ~~corporations cease procuring capacity through a centralized~~
25 ~~resource adequacy mechanism, the requirements of paragraph (2)~~
26 ~~of subdivision (c) shall again apply.~~

27 ~~(2) If the use of a centralized resource adequacy mechanism is~~
28 ~~authorized by the commission and has been implemented as set~~
29 ~~forth in paragraph (1), the net capacity costs of generation resources~~
30 ~~that the commission determines are required to meet urgent system~~
31 ~~or urgent local grid reliability needs, and that the commission~~
32 ~~authorizes to be procured outside of the Section 380 or Section~~
33 ~~454.5 processes, shall be recovered according to the provisions of~~
34 ~~paragraph (2) of subdivision (c).~~

35 ~~(3) Nothing in this subdivision supplants the resource adequacy~~
36 ~~requirements of Section 380 or the resource procurement~~
37 ~~procedures established in Section 454.5.~~

38 *(3) Require other providers to file an annual report with the*
39 *commission that lists each retail end-use customer to whom it*
40 *provided electric service during the year, the peak and total*

1 *consumption of that customer for that year, the address at which*
2 *electric service is provided and the term of any contract with the*
3 *retail customer, including the expiration date. Beginning January*
4 *1, 2013, other providers may not provide electric service to any*
5 *customer or customer address that was not listed in its annual*
6 *report for the previous year.*

7 (e)

8 (d) The commission may report to the Legislature on the efficacy
9 of authorizing individual retail end-use residential customers to
10 enter into direct transactions, including appropriate consumer
11 protections.

12 SEC. 2. Section 366 of the Public Utilities Code is repealed.

13 ~~366. (a) The commission shall take actions as needed to~~
14 ~~facilitate direct transactions between electricity suppliers and~~
15 ~~end-use customers. Customers shall be entitled to aggregate their~~
16 ~~electrical loads on a voluntary basis, provided that each customer~~
17 ~~does so by a positive written declaration. If no positive declaration~~
18 ~~is made by a customer, that customer shall continue to be served~~
19 ~~by the existing electrical corporation or its successor in interest,~~
20 ~~except aggregation by community choice aggregators,~~
21 ~~accomplished pursuant to Section 366.2.~~

22 ~~(b) Aggregation of customer electrical load shall be authorized~~
23 ~~by the commission for all customer classes, including, but not~~
24 ~~limited, to small commercial or residential customers. Aggregation~~
25 ~~may be accomplished by private market aggregators, special~~
26 ~~districts, or on any other basis made available by market~~
27 ~~opportunities and agreeable by positive written declaration by~~
28 ~~individual consumers, except aggregation by community choice~~
29 ~~aggregators, which shall be accomplished pursuant to Section~~
30 ~~366.2.~~

31 SEC. 3. Section 380 of the Public Utilities Code is amended
32 to read:

33 380. (a) The commission, in consultation with the Independent
34 System Operator, shall establish resource adequacy requirements
35 for all load-serving entities.

36 (b) In establishing resource adequacy requirements, the
37 commission shall achieve all of the following objectives:

38 (1) Facilitate development of new generating capacity and
39 retention of existing generating capacity that is economic and
40 needed.

1 (2) Equitably allocate the cost of generating capacity and prevent
2 shifting of costs between customer classes.

3 (3) Minimize enforcement requirements and costs.

4 (c) Each load-serving entity shall maintain physical generating
5 capacity adequate to meet its load requirements, including, but not
6 limited to, peak demand and planning and operating reserves. The
7 generating capacity shall be deliverable to locations and at times
8 as may be necessary to provide reliable electric service.

9 (d) Each load-serving entity shall, at a minimum, meet the most
10 recent minimum planning reserve and reliability criteria approved
11 by the Board of Trustees of the Western Systems Coordinating
12 Council or the Western Electricity Coordinating Council.

13 (e) The commission shall implement and enforce the resource
14 adequacy requirements established in accordance with this section
15 in a nondiscriminatory manner. Each load-serving entity shall be
16 subject to the same requirements for resource adequacy and the
17 renewables portfolio standard program that are applicable to
18 electrical corporations pursuant to this section, or otherwise
19 required by law, or by order or decision of the commission. The
20 commission shall exercise its enforcement powers to ensure
21 compliance by all load-serving entities.

22 (f) The commission shall require sufficient information,
23 including, but not limited to, anticipated load, actual load, and
24 measures undertaken by a load-serving entity to ensure resource
25 adequacy, to be reported to enable the commission to determine
26 compliance with the resource adequacy requirements established
27 by the commission.

28 (g) An electrical corporation's costs of meeting resource
29 adequacy requirements, including, but not limited to, the costs
30 associated with system reliability and local area reliability, that
31 are determined to be reasonable by the commission, or are
32 otherwise recoverable under a procurement plan approved by the
33 commission pursuant to Section 454.5, shall be fully recoverable
34 from those customers on whose behalf the costs are incurred, as
35 determined by the commission, at the time the commitment to
36 incur the cost is made or thereafter, on a fully nonbypassable basis,
37 as determined by the commission. The commission shall exclude
38 any amounts authorized to be recovered pursuant to Section 366.2
39 when authorizing the amount of costs to be recovered from
40 customers of a community choice aggregator or from customers

1 that purchase electricity through a direct transaction pursuant to
2 this subdivision.

3 (h) The commission shall determine and authorize the most
4 efficient and equitable means for achieving all of the following:

5 (1) Meeting the objectives of this section.

6 (2) Ensuring that investment is made in new generating capacity.

7 (3) Ensuring that existing generating capacity that is economic
8 is retained.

9 (4) Ensuring that the cost of generating capacity is allocated
10 equitably.

11 (i) In making the determination pursuant to subdivision (h), the
12 commission ~~may consider~~ *shall not authorize* a centralized resource
13 adequacy mechanism ~~among other options~~.

14 (j) For purposes of this section, “load-serving entity” means an
15 electrical corporation, electric service provider, or community
16 choice aggregator. “Load-serving entity” does not include any of
17 the following:

18 (1) A local publicly owned electric utility.

19 (2) The State Water Resources Development System commonly
20 known as the State Water Project.

21 (3) Customer generation located on the customer’s site or
22 providing electric service through arrangements authorized by
23 Section 218, if the customer generation, or the load it serves, meets
24 one of the following criteria:

25 (A) It takes standby service from the electrical corporation on
26 a commission-approved rate schedule that provides for adequate
27 backup planning and operating reserves for the standby customer
28 class.

29 (B) It is not physically interconnected to the electric transmission
30 or distribution grid, so that, if the customer generation fails, backup
31 electricity is not supplied from the electricity grid.

32 (C) There is physical assurance that the load served by the
33 customer generation will be curtailed concurrently and
34 commensurately with an outage of the customer generation.

35 SEC. 4. Section 399.13 of the Public Utilities Code, as added
36 by Section 16 of Chapter 1 of the First Extraordinary Session of
37 the Statutes of 2011, is amended to read:

38 399.13. (a) (1) The commission shall direct each electrical
39 corporation to annually prepare a renewable energy procurement
40 plan that includes the matter in paragraph (5), to satisfy its

1 obligations under the renewables portfolio standard. To the extent
2 feasible, this procurement plan shall be proposed, reviewed, and
3 adopted by the commission as part of, and pursuant to, a general
4 procurement plan process. The commission shall require each
5 electrical corporation to review and update its renewable energy
6 procurement plan as it determines to be necessary.

7 (2) Every electrical corporation that owns electrical transmission
8 facilities shall annually prepare, as part of the Federal Energy
9 Regulatory Commission Order 890 process, and submit to the
10 commission, a report identifying any electrical transmission
11 facility, upgrade, or enhancement that is reasonably necessary to
12 achieve the renewables portfolio standard procurement
13 requirements of this article. Each report shall look forward at least
14 five years and, to ensure that adequate investments are made in a
15 timely manner, shall include a preliminary schedule when an
16 application for a certificate of public convenience and necessity
17 will be made, pursuant to Chapter 5 (commencing with Section
18 1001), for any electrical transmission facility identified as being
19 reasonably necessary to achieve the renewable energy resources
20 procurement requirements of this article. Each electrical
21 corporation that owns electrical transmission facilities shall ensure
22 that project-specific interconnection studies are completed in a
23 timely manner.

24 (3) The commission shall direct each retail seller to prepare and
25 submit an annual compliance report that includes all of the
26 following:

27 (A) The current status and progress made during the prior year
28 toward procurement of eligible renewable energy resources as a
29 percentage of retail sales, including, if applicable, the status of any
30 necessary siting and permitting approvals from federal, state, and
31 local agencies for those eligible renewable energy resources
32 procured by the retail seller, and the current status of compliance
33 with the portfolio content requirements of subdivision (c) of
34 Section 399.16, including procurement of eligible renewable energy
35 resources located outside the state and within the WECC and
36 unbundled renewable energy credits.

37 (B) If the retail seller is an electrical corporation, the current
38 status and progress made during the prior year toward construction
39 of, and upgrades to, transmission and distribution facilities and
40 other electrical system components it owns to interconnect eligible

1 renewable energy resources and to supply the electricity generated
2 by those resources to load, including the status of planning, siting,
3 and permitting transmission facilities by federal, state, and local
4 agencies.

5 (C) Recommendations to remove impediments to making
6 progress toward achieving the renewable energy resources
7 procurement requirements established pursuant to this article.

8 (4) The commission shall adopt, by rulemaking, all of the
9 following:

10 (A) A process that provides criteria for the rank ordering and
11 selection of least-cost and best-fit eligible renewable energy
12 resources to comply with the California Renewables Portfolio
13 Standard Program obligations on a total cost basis. This process
14 shall take into account all of the following:

15 (i) Estimates of indirect costs associated with needed
16 transmission investments and ongoing electrical corporation
17 expenses resulting from integrating and operating eligible
18 renewable energy resources.

19 (ii) The cost impact of procuring the eligible renewable energy
20 resources on the electrical corporation's electricity portfolio.

21 (iii) The viability of the project to construct and reliably operate
22 the eligible renewable energy resource, including the developer's
23 experience, the feasibility of the technology used to generate
24 electricity, and the risk that the facility will not be built, or that
25 construction will be delayed, with the result that electricity will
26 not be supplied as required by the contract.

27 (iv) Workforce recruitment, training, and retention efforts,
28 including the employment growth associated with the construction
29 and operation of eligible renewable energy resources and goals
30 for recruitment and training of women, minorities, and disabled
31 veterans.

32 (B) Rules permitting retail sellers to accumulate, beginning
33 January 1, 2011, excess procurement in one compliance period to
34 be applied to any subsequent compliance period. The rules shall
35 apply equally to all retail sellers. In determining the quantity of
36 excess procurement for the applicable compliance period, the
37 commission shall deduct from actual procurement quantities, the
38 total amount of procurement associated with contracts of less than
39 10 years in duration. In no event shall electricity products meeting

1 the portfolio content of paragraph (3) of subdivision (b) of Section
2 399.16 be counted as excess procurement.

3 (C) Standard terms and conditions to be used by all electrical
4 corporations in contracting for eligible renewable energy resources,
5 including performance requirements for renewable generators. A
6 contract for the purchase of electricity generated by an eligible
7 renewable energy resource, at a minimum, shall include the
8 renewable energy credits associated with all electricity generation
9 specified under the contract. The standard terms and conditions
10 shall include the requirement that, no later than six months after
11 the commission's approval of an electricity purchase agreement
12 entered into pursuant to this article, the following information
13 about the agreement shall be disclosed by the commission: party
14 names, resource type, project location, and project capacity.

15 (D) An appropriate minimum margin of procurement above the
16 minimum procurement level necessary to comply with the
17 renewables portfolio standard to mitigate the risk that renewable
18 projects planned or under contract are delayed or canceled. This
19 paragraph does not preclude an electrical corporation from
20 voluntarily proposing a margin of procurement above the
21 appropriate minimum margin established by the commission.

22 (5) Consistent with the goal of increasing California's reliance
23 on eligible renewable energy resources, the renewable energy
24 procurement plan submitted by an electrical corporation shall
25 include all of the following:

26 (A) An assessment of annual or multiyear portfolio supplies
27 and demand to determine the optimal mix of eligible renewable
28 energy resources with deliverability characteristics that may include
29 peaking, dispatchable, baseload, firm, and as-available capacity.

30 (B) Potential compliance delays related to the conditions
31 described in paragraph (4) of subdivision (b) of Section 399.15.

32 (C) A bid solicitation setting forth the need for eligible
33 renewable energy resources of each deliverability characteristic,
34 required online dates, and locational preferences, if any.

35 (D) A status update on the development schedule of all eligible
36 renewable energy resources currently under contract.

37 (E) Consideration of mechanisms for price adjustments
38 associated with the costs of key components for eligible renewable
39 energy resource projects with online dates more than 24 months
40 after the date of contract execution.

1 (F) An assessment of the risk that an eligible renewable energy
2 resource will not be built, or that construction will be delayed,
3 with the result that electricity will not be delivered as required by
4 the contract.

5 (6) In soliciting and procuring eligible renewable energy
6 resources, each electrical corporation shall offer contracts of no
7 less than 10 years duration, unless the commission approves of a
8 contract of shorter duration.

9 (7) In soliciting and procuring eligible renewable energy
10 resources for California-based projects, each electrical corporation
11 shall give preference to renewable energy projects that provide
12 environmental and economic benefits to communities afflicted
13 with poverty or high unemployment, or that suffer from high
14 emission levels of toxic air contaminants, criteria air pollutants,
15 and greenhouse gases.

16 (b) A retail seller may enter into a combination of long- and
17 short-term contracts for electricity and associated renewable energy
18 credits. The commission may authorize a retail seller to enter into
19 a contract of less than 10 years' duration with an eligible renewable
20 energy resource, if the commission has established, for each retail
21 seller, minimum quantities of eligible renewable energy resources
22 to be procured through contracts of at least 10 years' duration. *The*
23 *minimum quantity procured through contracts of at least 10 years'*
24 *duration established by the commission for each retail seller shall*
25 *not be less than 50 percent of the retail sales used to meet that*
26 *retail seller's renewable energy resources procurement*
27 *requirements, for each compliance period established in*
28 *subdivision (b) of Section 399.15.*

29 (c) The commission shall review and accept, modify, or reject
30 each electrical corporation's renewable energy resource
31 procurement plan prior to the commencement of renewable energy
32 procurement pursuant to this article by an electrical corporation.

33 (d) Unless previously preapproved by the commission, an
34 electrical corporation shall submit a contract for the generation of
35 an eligible renewable energy resource to the commission for review
36 and approval consistent with an approved renewable energy
37 resource procurement plan. If the commission determines that the
38 bid prices are elevated due to a lack of effective competition among
39 the bidders, the commission shall direct the electrical corporation
40 to renegotiate the contracts or conduct a new solicitation.

(e) If an electrical corporation fails to comply with a commission order adopting a renewable energy resource procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance. The commission shall enforce comparable penalties on any retail seller that is not an electrical corporation that fails to meet the procurement targets established pursuant to Section 399.15.

(f) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for electricity products from eligible renewable energy resources to satisfy the retail seller's renewables portfolio standard procurement requirements. The commission shall not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

(g) Procurement and administrative costs associated with contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article and approved by the commission are reasonable and prudent and shall be recoverable in rates.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives pursuant to Section 25742 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives, are "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.
3 SEC. 6. This act addresses the fiscal emergency declared and
4 reaffirmed by the Governor by proclamation on January 20, 2011,
5 pursuant to subdivision (f) of Section 10 of Article IV of the
6 California Constitution.

O